



STATE OF NEVADA
DEPARTMENT OF HEALTH & HUMAN SERVICES
DIVISION OF WELFARE & SUPPORTIVE SERVICES
1470 College Parkway
Carson City, NV 89706
(775) 684-0500

MICHAEL J. WILLDEN
Director

NANCY KATHRYN FORD
Administrator

PUBLIC HEARING NOTICE AND AGENDA
August 19, 2008

**NOTICE OF PUBLIC HEARING TO ADOPT TEMPORARY ASSISTANCE TO NEEDY
FAMILIES, MEDICAID, FOOD STAMP, and CHILD CARE PROGRAM
POLICY AND STATE PLAN AMENDMENTS**

The Nevada Division of Welfare & Supportive Services (DWSS) plans to hold a public hearing in Carson City and Las Vegas on August 19, 2008 via video-conference to obtain comment and input from interested persons on the Temporary Assistance to Needy Families (TANF), Medicaid, Food Stamp, and Child Care Program policy and state plan amendments. DWSS will have personnel at the hearing to discuss the proposed state plan, policy amendments, and respond to questions on the same.

Date: August 19, 2008

Time: 9:00 a.m.

Location: Legislature Building
401 South Carson Street
Room #3138
Carson City, Nevada

Grant Sawyer Building
555 East Washington Avenue
Room #4401
Las Vegas, Nevada

AGENDA

***I. Temporary Assistance for Needy Families State Plan and Policy:**

- A.** In order to slow and reduce spending and prevent overspending of the TANF block grant and possible cuts in essential programs, the Division is proposing to apply the TANF earned income wage disregards in effect prior to February 2007.
- B.** In order to encourage mandatory work-eligible participants in TANF households comply with their Personal Responsibility Plan (PRP), the Division is proposing to impose a three month sit-out period for TANF cash recipients and TANF-Related adult Medicaid recipients for families who fail to meet the terms of their PRP.
- C.** The Division is proposing to change the TANF requirement of redetermining eligibility every six months to every 12 months.

***II. Medicaid State Plan and Policy:**

“Working for the Welfare of ALL Nevadans”

- A. In order to reduce Medicaid spending and prevent possible severe cuts in essential services, the Division is proposing to apply the TRM and CHAP earned income wage disregards in effect in Nevada prior to February 2007.

***III. Food Stamp Program State Plan and Policy:**

- A. Federal regulations allow States the option of imposing an individual sanction or whole-household sanction when the recipient in non-compliance with Food Stamp Employment and Training requirements is the head-of-household. In order to encourage mandatory recipients to comply, the Division is proposing to impose a whole-household sanction.

***IV. Medical Assistance for the Aged Blind and Disabled State Plan and Policy:**

- A. DWSS proposes to clarify its policy when an asset is given away, sold, or disposed of for less than fair market value to obtain or retain Medicaid eligibility. In the specific instance when excessive guardianship fees, especially those paid to a relative, and attorney fees are collected without a detailed justification of services provided or of reasonableness of fee charged, will be considered a transfer of assets for uncompensated value.

V. General Public Comments

- * Indicates items on which action may be taken at the August 19, 2008 public hearing.

Agenda items may be taken out of order to accomplish business in the most efficient manner.

Note: Testimony and written materials submitted during the Public Hearing will be considered. Persons wishing to comment on the Child Support Enforcement State Plan and/or policy changes may appear at the scheduled public hearing or address their comments in writing to:

**Nancy K. Ford, Administrator
Nevada State Division of Welfare and Supportive Services
1470 College Parkway
Carson City, NV 89706**

Written submissions should be received by August 14, 2008 to be given adequate time for copying and consideration at the public hearing. Persons wishing to comment may also appear at the public hearing on August 19, 2008.

A copy of this notice and the state plan/regulations/policy changes are available at the following locations for inspection and copying:

DWSS Central Office	1470 College Parkway	Carson City	89706
Las Vegas Belrose DWSS Office	700 Belrose St.	Las Vegas	89158
Reno DWSS Office	3697 King's Row	Reno	89503
Elko DWSS Office	1020 Ruby Vista Dr. #101	Elko	89801

MAILING DATE: **June 26, 2008**

PUBLIC HEARING POSTING LOCATIONS:

Nevada Legislature Building	401 South Carson Street	Carson City
Grant Sawyer Building	555 East Washington Avenue	Las Vegas
DWSS Central Office	1470 College Parkway	Carson City
Elko DWSS Office	1020 Ruby Vista Drive, #101	Elko
Reno DWSS Office	3697 Kings Row, Unit D	Reno
Las Vegas Flamingo DWSS Office	3330 E. Flamingo, Suite 55	Las Vegas
Las Vegas Belrose DWSS Office	700 Belrose St.	Las Vegas

In addition, this notice is posted on the division's web site at <http://dwss.nv.gov/>.

****IMPORTANT NOTICE****

Mailing a copy of the DWSS public hearing agenda to any person who has requested one will not be continued unless a request for reinstatement on the mailing list is made every six months. NRS 241.020.

Persons with disabilities who require special accommodations or assistance at the meeting are requested to notify Lynette Giles at the Nevada Division of Welfare and Supportive Services, 1470 College Parkway, Carson City, Nevada, 89706 or by calling (775) 684-0504 no later than five (5) working days before the public hearing.

**PROPOSED REGULATIONS
DIVISION OF WELFARE & SUPPORTIVE SERVICES
TANF STATE PLAN AND POLICY MANUAL**

**REGULATION ADOPTION PUBLIC HEARING
August 19, 2008**

Need and Purpose of Proposed Regulation:

The Division of Welfare & Supportive Services is responsible for administration of the Temporary Assistance to Needy Families (TANF) block grant. In order to slow and reduce spending and prevent overspending of the TANF block grant and possible cuts in essential programs, the Division is proposing to apply the TANF earned income wage disregards in effect prior to February 2007.

Currently wage earners whose income is used to determine eligibility are allowed certain deductions from their gross earnings. The Earned Income disregards are applied as follows:

- 100% of gross earnings for three months;
- 85% of gross earnings for the second three months;
- 75% for the third three months;
- 65% for the fourth three months;
- An uncapped dependent care expense, and
- A \$90 or 20% standard work expense, whichever is greater, after the 12-months disregard period is applied.

The following policy and State Plan changes are proposed to ensure that limited TANF block grant funds are reaching families who are genuinely seeking to become self-sufficient.

Proposed Changes

Wage earners whose income is used to determine eligibility would be allowed the following earned income deductions from their gross earned income. The Earned Income disregards are applied as follows:

- 100% of gross earnings for three months;
- 50% of gross earning for the next nine months;
- An uncapped dependent care expense; and
- A \$90 or 20% standard work expense, whichever is greater, after the 12-month of graduated disregards are applied.

Financial Impact:

Unknown.

Impact Upon Local Government:

None anticipated

PROPOSED STATE PLAN AMENDMENT (OR REGULATION)

The Division of Welfare and Support Services (DWSS) proposes to amend the following TANF State Plan Sections and policy areas effective *October 1, 2008*.

TANF State Plan Section 2.4, pages 11 and 12 will be amended to read as follows;

D. Disregards

1. Earnings disregards will be applied as follows:

- 100% of gross earnings for three months;
- 50% of gross earning for the next nine months;
- An uncapped dependent care expense; and
- A \$90 or 20% standard work expense, whichever is greater, after the 12-months of graduated disregards are applied.

**PROPOSED REGULATIONS
DIVISION OF WELFARE & SUPPORTIVE SERVICES
STATE PLAN AND MEDICAID POLICY MANUAL**

**REGULATION ADOPTION PUBLIC HEARING
August 19, 2008**

Need and Purpose of Proposed Regulation:

The Division of Welfare & Supportive Services is responsible for administration of the TANF block grant. In order to encourage mandatory work-eligible participants in TANF households comply with their Personal Responsibility Plan (PRP), the Division is proposing to impose a three month sit-out period for TANF cash recipients and TANF-Related adult Medicaid recipients for families who fail to meet the terms of their PRP.

The following policy and State Plan changes are proposed to ensure that limited TANF and Medicaid dollars are reaching families who are genuinely seeking to become self-sufficient. Pregnant women and children are exempt from the Medicaid sit-out period.

Financial Impact:

Currently, approximately 300 families are terminated a month for failing to meet the terms of their PRP. The average TANF grant is approximately \$342 x 300 families = \$102,600 per month.

Impact Upon Local Government:

This is a potential cost saving to TANF block grant of over 1 million dollars per year.

PROPOSED STATE PLAN AMENDMENTS (OR REGULATIONS)

The Division of Welfare and Supportive Services (DWSS) proposes to amend the following **Medicaid State Plan** Sections and policy manual effective *October 1, 2008*.

Supplement 12 to Attachment 2.6-A Page 3. "The agency terminates medical assistance for three months (except for certain pregnant women and children) for individuals who fail to meet TANF work requirements.

The Division of Welfare and Supportive Services proposes to amend the following **TANF State Plan** Section and policy manual effective *October 1, 2008*.

Section 2.4 Need and Amount of Benefits
SANCTIONS

C. Failure to Cooperate During 30-Day Conciliation Period

Assistance will terminate for a period not less than three months.
The family must meet the PRP before they are eligible to reapply; and,
if the individual reapplies before the disqualification has ended, benefits will be denied.

**PROPOSED REGULATIONS
DIVISION OF WELFARE & SUPPORTIVE SERVICES
MEDICAID STATE PLAN AND POLICY MANUAL**

**REGULATION ADOPTION PUBLIC HEARING
August 19, 2008**

Need and Purpose of Proposed Regulation:

The Division of Welfare & Supportive Services is responsible for administration of the Temporary Assistance to Needy Families (TANF) block grant. The Division is proposing to change the TANF requirement of redetermining eligibility every six months to every 12 months. This change will save costs by reducing printing charges, postage costs as well as reducing staff hours to process the redeterminations, allowing staff to service additional recipients. In addition, it will be less stressful on the recipients as they will have only one mandatory face-to-face interview to redetermine eligibility a year.

Currently regulations require all TANF households complete a redetermination (RD) of eligibility every six months from the calendar month of approval. An RD may be completed more often if the case circumstances warrant it, and at least one face-to-face interview in 12 months must be conducted.

Proposed Changes

Require all TANF households to complete a face-to-face interview for a redetermination (RD) of eligibility every 12 months from the calendar month of approval; however, one may be completed more often if the case circumstances warrant it.

Financial Impact:

Unknown at this time.

Impact Upon Local Government:

None anticipated.

PROPOSED STATE PLAN AMENDMENT (OR REGULATION)

The Division of Welfare and Support Services (DWSS) proposes to amend the following TANF State Plan Section and policy manual effective *October 1, 2008*.

TANF State Plan section 2.2 will be amended to read Nevada redetermines eligibility at least every 12 months.

**PROPOSED REGULATIONS
DIVISION OF WELFARE & SUPPORTIVE SERVICES
STATE PLAN AND MEDICAID POLICY MANUAL**

**REGULATION ADOPTION PUBLIC HEARING
August 19, 2008**

Need and Purpose of Proposed Regulation:

The Division of Welfare & Supportive Services is responsible for the eligibility determination for the TANF Related Medical (TRM) program and the Child Health Assurance Program (CHAP). In order to reduce Medicaid spending and prevent possible severe cuts in essential services, the Division is proposing to apply the TRM and CHAP earned income wage disregards in effect in Nevada prior to February 2007.

Currently wage earners whose income is used to determine eligibility are allowed certain deductions from their gross earning. The Earned Income disregards are applied as follows:

- 100% of gross earnings for three months;
- 85% of gross earnings for the second three months;
- 75% for the third three months;
- 65% for the fourth three months;
- An uncapped dependent care expense; and
- A \$90 or 20% standard work expense, whichever is greater, after the 12 month of graduated disregards are applied.

The following policy and Medicaid State Plan changes to the earned income disregard are proposed to ensure the limited Medicaid dollars are reaching Nevada's neediest families.

Proposed Changes

Wage earners whose income is used to determine eligibility would be allowed the following earned income deductions from their gross earned income. The Earned Income disregards are applied as follows:

- 100% of gross earning for the first three months;
- 50% of gross earning for the next nine months;
- An uncapped dependent care expense; and,
- A \$90 or 20% standard work expense, whichever is greater, after the 12-months disregard period is applied.

Financial Impact:

Children losing Medicaid due to the resource limits may become eligible for the Nevada Check Program.

Impact Upon Local Government:

None anticipated, unless county governments intend to provide medical coverage to those individuals who become ineligible due to the change.

PROPOSED STATE PLAN AMENDMENT (OR REGULATION)

The Division of Welfare and Support Services (DWSS) proposes to amend the following Medicaid State Plan Sections and policy areas effective *October 1, 2008*.

Supplement 12 to Attachment 2.6-A, page 3 will be amended to read as Follows:

1. 100% of gross earned income is disregarded for the first three months;
2. 50% of gross earned income is disregarded for the next nine months;
3. An uncapped dependent care expense; and
4. A \$90 or 20% standard work expense, whichever is greater, after the 12 months of graduated disregards are applied.

**PROPOSED REGULATIONS
DIVISION OF WELFARE & SUPPORTIVE SERVICES
FOOD STAMP EMPLOYMENT AND TRAINING STATE PLAN AND POLICY MANUAL**

REGULATION AND ADOPTION PUBLIC HEARING

August 19, 2008

Need and Purpose of Proposed Regulation:

The Division of Welfare & Supportive Services is required by Food and Nutrition Services (FNS) to administer an Employment and Training Program for mandatory Food Stamp recipients. Federal regulations allow States the choice of imposing an individual sanction or whole-household sanction when the recipient in non-compliance is the head-of-household. In order to encourage mandatory recipients to comply, the Division is proposing to impose a whole-household sanction.

Financial Impact:

None

Impact Upon Local Government:

Minimal

PROPOSED STATE PLAN AMENDMENTS (OR REGULATIONS)

The Division of Welfare and Supportive Services (DWSS) proposes to amend the following **Food Stamp State Plan** Section and policy manual effective **October 1, 2008**.

The Food Stamp State Plan section Part III, Program Coordination, will be amended to read...

“Appropriate action may include issuance of the Notice of Adverse Action and subsequent sanctioning of the whole household if the non-complying recipient is the head-of-household; the sanctioning of the recipient if not the head-of-household; or evaluation of a claimed exemption.”

**PROPOSED REGULATIONS
DIVISION OF WELFARE & SUPPORTIVE SERVICES
MEDICAL ASSISTANCE FOR THE AGED BLIND AND DISABLED
STATE PLAN AND POLICY MANUAL**

REGULATION ADOPTION PUBLIC HEARING

August 19, 2008

Need and Purpose of Proposed Regulation:

The Division of Welfare and Supportive Services (DWSS) policy currently considers all income and resources which an institutionalized individual is entitled to but does not receive because of any action by the institutionalized individual, the community spouse, another person, including a court or administrative body, with legal authority, or at the direction or request of or on behalf of the institutionalized individual or the community spouse as a transfer of assets. DWSS defines a transfer of assets as any income or resources that are given away, sold, or disposed of for less than fair market value to obtain or retain Medicaid eligibility and includes that which the institutionalized individual or community spouse is entitled to or would be entitled if action had not been taken to avoid receiving the assets.

DWSS is encountering applications for medical assistance where costs for Guardianships and Attorney Fees for Guardianship Matters appear excessive and unreasonable in relationship to services rendered the institutionalized individual. At times it involves a relative who serves as the guardian and or an attorney who assists the guardian and represents the institutionalized individual. Often the relative guardian is compensated solely to visit the institutionalized relative and or attorney fees collected when the services appear duplication between the guardian and attorney.

DWSS observes such excessive fees as an institutionalized individual's spend down in order to meet program eligibility requirements. And because attorneys at times draft the legal documents for court filing that includes their fees and costs and those of the guardian, a justification of their fees more often may not be included as a court exhibit; nor is a question of its absence or of the reasonableness of the fees for services raised by the court.

Section 1917(c)(1) of the Social Security Act and the Public Law 109-171, Deficit Reduction Act of 2005, Sections 6011 and 6016; and the State Medicaid Manual, Section 3258.1 state the federal rules that guide the DWSS when establishing its transfer of assets policy for institutionalized individuals who apply for medical assistance.

DWSS proposes to clarify its policy when an asset is given away, sold, or disposed of for less than fair market value to obtain or retain Medicaid eligibility. In the specific instance when excessive guardianship fees, especially those paid to a relative, and attorney fees are collected without a detailed justification of services provided or of reasonableness of fee charged, will be considered a transfer of assets for uncompensated value.

Financial Impact:

The impact of the proposed change on the state would be positive, since the change would require an institutionalized individual to justify the services and reasonableness of fees charged by the guardian and the attorney in representation of the institutionalized individual when spend down of the applicants resources is filed with the court. In instances where services and or fees are not sufficiently justified, or are unreasonable based on the rate charged, the scope of services provided and the benefit received, it will be determined a transfer of assets occurred, and a disqualification for long-term care services for a period of time would be applied. Through the disqualification period the institutionalized individual would have to have an alternative method for payment of their cost of care or seek undue hardship.

Impact Upon Local Government:

None

PROPOSED REGULATION

The following is proposed added:

MAABD 240(G) Transfer of Resources-Treatment of Certain Kinds of Asset Transfers

3. Guardianship and Attorney Fees for Guardianship Matters

Effective with applications dated October 1, 2008.

Any payment from an individual's resources or income may be considered a transfer of assets for uncompensated value, unless, the fee meets the following criteria:

a. Guardianship Fees

1. Services must have already been provided;
2. Compensation must be approved by the Court;
3. Fees must be supported by detailed time records describing the service provided and time spent;
4. Services must be typical of the types of services provided by a Guardian;
5. Hourly rate upon which the Guardianship fees are based must be consistent with the person's experience and expertise, and must be no higher than is charged to other persons who are not seeking or likely to apply for Medicaid;
6. When more than one person is acting as Guardian, compensation will be allowed for only one of them performing a particular task;
7. Where the Guardian is a relative, the services provided and fee charged, must be for tasks other than those normally done out of love and affection, such as visiting the ward;
8. Cannot be a deduction from Patient Liability.

b. Attorney Fees for Guardianship Matters

1. Services must have already been provided;
2. Must have been approved by the Court in accordance with the Nevada Revised Statutes;
3. Must be supported by billing records describing the service provided and time spent;
4. Services provided must be those commonly recognized as legal services;
5. Amount charged must not be higher than the amount the attorney normally charges clients who are not seeking or likely to apply for Medicaid;
6. Cannot be a deduction from Patient Liability.

Send all documents regarding Guardianship and Attorney Fees for Guardianship Matters to the Chief of Eligibility and Payments for review.

Effective Date – August 1, 2008